IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION

No. 4:12-CR-00017-F-1
No. 4:16-CV-00191-F

EMMANUEL WALLACE, III,

Petitioner,

v.

ORDER

UNITED STATES OF AMERICA,

Respondent.

This matter is before the court on Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-85, -87]. Having examined Petitioner's motion pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing Section 2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255 motion, within **forty (40)** days of the filing of this order.

Petitioner has asserted a challenge based on *Johnson v. United States*, 135 S. Ct. 2551 (2015). Petitioner, however, does not qualify for appointed counsel pursuant to Standing Order No. 15-SO-2 (E.D.N.C. Oct. 16, 2015) because he had retained counsel when he was previously before this court.

SO ORDERED.

This 22 day of August, 2016.

James C. FOX

SENIOR UNITED STATES DISTRICT JUDGE